

United States Court of Appeals
For the Eighth Circuit

No. 14-2889

United States of America

Plaintiff - Appellee

v.

Luis Chavez Preciado, also known as Luis Fernando Chavez Preciado

Defendant - Appellant

Appeal from United States District Court
for the Southern District of Iowa - Davenport

Submitted: February 4, 2015

Filed: February 4, 2015

[Unpublished]

Before SMITH, GRUENDER, and BENTON, Circuit Judges.

PER CURIAM.

Luis Chavez Preciado directly appeals the district court's¹ sentence, imposed after he pled guilty to conspiring to distribute methamphetamine, in violation of 21

¹The Honorable John A. Jarvey, United States District Judge for the Southern District of Iowa.

U.S.C. §§ 841(a)(1), (b)(1)(A), and 846. At sentencing, the court granted the parties' joint request for a downward variance based on an anticipated amendment to the Sentencing Guidelines; but denied Chavez's separate motion for an additional downward variance. Counsel has filed a brief under *Anders v. California*, 386 U.S. 738 (1967), arguing that the 151-month sentence was substantively unreasonable because, as an alien, Chavez is ineligible for Bureau of Prisons programs that could potentially result in early release from prison, and a 120-month sentence would have adequately accomplished the 18 U.S.C. § 3553(a) sentencing goals.

After careful review, this court affirms. *See United States v. Feemster*, 572 F.3d 455, 461 (8th Cir. 2009) (en banc) (this court reviews sentence under deferential abuse-of-discretion standard). The sentence was not substantively unreasonable, as the district court considered the relevant section 3553(a) factors during sentencing, and did not commit a clear error of judgment in weighing those factors. *See United States v. Salazar-Aleman*, 741 F.3d 878, 881 (8th Cir. 2013) (outlining substantive-reasonableness test); *Feemster*, 572 F.3d at 464 (substantive review is narrow and deferential to sentencing court); *see also United States v. Lazarski*, 560 F.3d 731, 733 (8th Cir. 2009) (if district court varies downward from presumptively reasonable Guidelines recommendation, it is "nearly inconceivable" that court abused its discretion by not varying downward further). An independent review of the record pursuant to *Penon v. Ohio*, 488 U.S. 75, 80 (1988), reveals no nonfrivolous issues for appeal.

The judgment is affirmed. Counsel's motion to withdraw is granted.
